

plurality of preset order parameters.

REMARKS

Applicant thanks the Examiner for the opportunity to discuss the features and benefits of the presently claimed invention during a teleconference held on March 2, 2004 between the Examiner and Steve Borsand. The participants discussed Silverman et al. cited in rejecting claim 1 and discussed distinguishing features of the independent claim, including the distinguishing features presented in this response.

In the Office Action of March 4, 2004, on page 2, the Examiner withdraws the rejections under 35 U.S.C. 101 of the prior office action based on Applicants' remarks.

On page 2 of the Office Action, the rejection under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention of dependent claim 62 is respectfully traversed. Claim 62 depends from independent claim 1, which has been amended to further clarify "the order icon" recited in claim 62. The "order icon" in claim 62 represents the order that, according to claim 1, is associated with an order "by the user for a particular quantity of the item," and is clearly distinguished from the plurality of bid and ask indicators because the order icon is associated with the user's own order.

The rejection of claims 1, 4-9, 12 and 16-17 under 35 U.S.C. 102(b) as being anticipated by U.S. patent no. 5,136,501 to Silverman et al. ("Silverman") is respectfully traversed.

Applicants respectfully disagree with the Examiner's interpretation of Silverman. Silverman describes an anonymous matching system in which bids are automatically matched against offers for given trading instruments. Logical models are used in the

figures of Silverman, for example Figs. 4 and 5, to illustrate how the disclosed matching system operates. With particular reference to Col. 4, line 27 to Col. 5, line 25, Silverman describes that various pieces of information shown in the logical models, such as the best bid or offer, are used "to generate displays at the keystations" (see also Col. 10, lines 1-10). Of course, it is understood that displaying the best bid or offer, among other things, is necessary for the Silverman matching system to work. However, the Silverman reference does not concern itself with the actual graphical display of that information. Rather, Silverman uses the logical models to describe central and keystation order books of the matching system and its operation, and not how the information is graphically displayed to the user.

Further, in Figs. 4 and 5, Silverman illustrates order books employed in the distributed matching system. To facilitate an understanding of the matching system, the logical model in Fig. 4 shows boxes that represent entries in the market in numerical order from the highest absolute price to lowest absolute price. (Col. 9, lines 46 et seq.). According to Silverman, "[t]his convention is also followed in connection with the keystation book of FIG. 5 which is a subset of the system or central station or host book of FIG. 4." (Col. 10, lines 1-10). As such, Figs. 4 and 5 are simple illustrations of arranging entries in numerical order from highest to lowest. Once a new entry enters the market, the logical model may move the entries to preserve the relative ordering. (See also Fig. 14 in Silverman). This simple ordering arrangement does not teach or suggest Applicants' step of displaying bids and offers at particular locations along an "axis" corresponding to the value of the bids and offers.

Nonetheless, Applicants have amended independent claim 1 to particularly point

out an aspect of Applicants' invention. Of course, Applicants reserve the right to pursue the invention claimed by the previously presented claims, such as previously presented independent claim 1, in a later case.

Accordingly, independent claim 1 as amended distinguishes over Silverman, at least because Silverman does not show, teach, or suggest displaying "each bid indicator at a location along a first scaled axis of values..." and displaying "each offer indicator at a location along the first scaled axis of values..." In particular, Silverman does not describe the step of displaying indicators along a "scaled axis of values." Furthermore, Silverman does not show, teach, or suggest "displaying an order icon associated with an order by the user for a particular quantity of the item." More specifically, Silverman does not distinguish a user's own order from orders of others. Silverman also does not disclose the element of "in response to a user initiated command, moving the order icon to a location associated with a value along the first scaled axis of values" because at the very least, Silverman does not show an order icon placed by the user.

The remaining pending claims 4, 12 and 16, which were rejected under 35 U.S.C. 102(b) depend ultimately from currently amended, independent claim 1, and are patentable over Silverman for at least the same reasons that claim 1 is patentable over Silverman.

On pages 4-5, the Examiner rejected claims 10, 11, 13-15 under 35 U.S.C. 103(a) as being unpatentable over Silverman. On pages 5-7, the Examiner rejected claims 2-3 and 59-69 under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of U.S. patent no. 5,619,631 to Schott et al. ("Schott"). On pages 7-8, the Examiner rejected claims 18 and 28 under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of

U.S. patent no. 6,188,403 to Sacerdoti et al. ("Sacerdoti"). On pages 8-9, the Examiner rejected claim 32 under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of the publication entitled "How the Futures Markets Work" by Jake Bernstein, p. 62 and figure 5.1 ("Bernstein"). Applicant respectfully traverses each of these rejections and requests reconsideration.

As a result of the current amendment, all of the presently rejected claims under 35 U.S.C. 103(a) ultimately depend from claim 1, and for at least the reasons described below, are patentable over the cited references. As indicated earlier, Silverman does not disclose, teach or suggest various limitations of independent claim 1. For example, at the very least, Silverman does not show, teach, or suggest displaying indicators along a "scaled axis of values," "displaying an order icon associated with an order by the user..." or "in response to a user initiated command, moving the order icon..." all three of which are elements found in Applicants' claim 1.

In addition, none of the other cited references including Schott and Sacerdoti show at least these elements missing from Silverman to render claim 1 obvious to one of ordinary skill in the art. In particular, neither Schott nor Sacerdoti show, teach, or suggest at least the elements of displaying indicators along a "scaled axis of values," "displaying an order icon associated with an order by the user..." or "in response to a user initiated command, moving the order icon..." Moreover, there is simply no suggestion to combine the cited references to fill in these missing elements.

Furthermore, each of the pending rejected dependent claims are allowable over the cited references for their own separate reasons.

For example, with respect to claim 2, the Examiner admits that Silverman does

not show icons adjustable to reflect the quantity of the order. Using Schott, the Examiner attempts to address this missing element. However, Schott also does not show icons "adjustable by the user to reflect the quantity of the order," nor is there any suggestion to combine such references as Silverman's logical models are not meant for display or even data manipulation. They are shown only for purposes of describing a matching system.

With respect to claim 10, it would not have been obvious to one of ordinary skill in the art at the time the invention was made, in view of Silverman, to distinguish orders placed by the user from orders placed by other users. Because Silverman does not specifically address entering orders into a display, Silverman makes no attempt or suggestion to distinguish between a user's own orders and other users' orders.

As to claims 18 and 28, Silverman and Sacerdoti make no suggestion to add the elements set forth in these dependent claims. For example, neither suggest having a third axes representing historical activity of the market as called for by claim 18. Also, as to claim 28, Applicants respectfully disagree with the Examiner's statement that Silverman, at Col. 6, line 61 to Col. 7, line 13, teaches placement of an order in accordance with value and quantity. The referred lines simply describe using conventional order entry, and not "moving the order token to a user specified location with respect to a value axis and a quantity axis which corresponds to the desired value and quantity for the order; thereby enabling placing of the order in accordance with the desired value and quantity."

With the current amendment, the method claimed in previously presented claim 59 is now incorporated into independent claim 1. Contrary to the Examiner's statement that claim 59 is unpatentable over Silverman in view of Schott, neither Silverman or Schott disclose displaying an order icon and, in response to a user initiated command,

"moving the order icon" to a location associated with a value along the first scaled axis of values. First, Silverman does not disclose an "order placement system" as the Examiner suggests, but rather Silverman discloses an anonymous matching system. The referred lines in Silverman (referred to Col. 1, line 29 to Col. 2, line 63; and Figs. 4 and 5) merely describe what the prior art matching systems lack and go into explicit detail describing various aspects of features missing in prior art matching systems. Furthermore, Silverman describes the anonymous matching system using only a conventional order entry (see Col. 7, lines 1-5), and does not suggest a more sophisticated order entry system that uses data manipulation. Second, the referred lines in Schott (Col. 3, lines 20-25 and Col. 20, line 60 to Col. 21, line 28) describe modification of bar graphs, not the claimed element of "moving the order icon to a location associated with a value along the first scaled axis of values." As such, neither Silverman alone or combined with Schott render the element claimed in previously presented claim 59, and now claim 1, obvious.

For similar reasons above, Silverman and Schott make no suggestions to render obvious the elements called for in currently amended dependent claims 61-69.

Nonetheless, presently pending claims 1, 2, 4, 10-12, 16, 18, 28, and 61-69 depend either directly or indirectly for independent claim 1 and are patentable over Silverman for at least the same reasons that claim 1 is patentable over Silverman, both alone and in combination with the other cited references.

Claims 3, 5-9, 13-15, 17, 32, and 59-60 have been cancelled without prejudice or disclaimer. Therefore, any arguments for patentability may be moot for these claims.

New claims 70 - 98 are presented herewith. No new matter has been added.

In light of the foregoing, Applicants submit that the present application is in condition for allowance and notice to that effect is hereby requested.

Respectfully Submitted

McDonnell Boehnen
Hulbert & Berghoff LLP

By: 

Matthew J. Sampson
Reg. No. 35,999

Date: April 1, 2004

McDonnell Boehnen Hulbert & Berghoff LLP
300 S. Wacker Drive
Chicago, IL 60606
312-913-0001